

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

DANIEL R. COUSINS,	:	
	:	
Petitioner,	:	
	:	
v.	:	Civ. Act. No. 05-212-JJF
	:	
THOMAS CARROLL,	:	
Warden, and M. JANE BRADY,	:	
Attorney General of the	:	
State of Delaware	:	
	:	
Respondents.	:	

MOTION FOR EXTENSION OF TIME

Pursuant to Rule 6 of the Federal Rules of Civil Procedure, the respondents move for an extension of time in which to file an answer to the petition. In support thereof, the respondents state the following:

1. The petitioner, Daniel R. Cousins, has applied for federal habeas relief challenging an August 2000 conviction by a Delaware Superior Court jury of two counts of first degree rape, one count of fourth degree rape, and one count of unlawful sexual contact. Cousins was sentenced to 30 years in prison followed by probation. The conviction and sentence were affirmed on direct appeal. *Cousins v. State*, No. 558, 2000 (Del. Nov. 2, 2001). The Superior Court denied Cousins ensuing request for state post-conviction relief, and the decision was affirmed on appeal. *Cousins v. State*, No. 593, 2003 (Del. May 13, 2004). By the terms of the Court's order, the answer to the petition is due to be filed on or before July 18, 2005.

2. Due to case load and various other matters, undersigned counsel needs additional time to prepare and file an answer to the petition. In addition to other matters, undersigned counsel in the last month has filed answers in two other federal habeas cases, filed an answering brief in the state supreme court, and participated in oral argument in the state supreme court on Wednesday, July 13, 2005. Counsel will also be out of the office on Friday, July 15, 2005. Because of this work load, counsel requires the additional time to prepare the answer in this case.

3. Under Habeas Rule 4, the Court has the discretion to give respondents an extension of time exceeding the 40-day limit in Civil Rule 81(a)(2). *Clutchette v. Rushen*, 770 F.2d 1469, 1473-74 & n.4 (9th Cir. 1985); *Kramer v. Jenkins*, 108 F.R.D. 429, 431-32 (N.D. Ill. 1985). The comment to Rule 4 expressly states that the district court has "the discretion to take into account various factors such as the respondent's workload" in determining the period of time that should be allowed to answer the petition.

4. This is the respondents' first request for an extension of time in this case. The requested extension will not result in any prejudice to the petitioner.

5. In light of the above, the respondents submit that an extension of time from July 18, 2005 to and including July 22, 2005 is reasonable.

/s/

Thomas E. Brown (ID# 3278)
Deputy Attorney General
Department of Justice
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Wilmington, DE 19801
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Date: July 14, 2005

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Warden, and M. JANE BRADY,	:	
Attorney General of the	:	
State of Delaware	:	
	:	
Respondents.	:	

O R D E R

This _____ day of _____, 2005,

WHEREAS, respondents having requested an extension of time in which to file an answer to the petition for a writ of habeas corpus, and

WHEREAS, it appearing to the Court that the request is timely and good cause has been shown for the extension,

IT IS HEREBY ORDERED that respondents' answer shall be filed on or before July 22, 2005.

United States District Judge

CERTIFICATE

I hereby certify that I have neither sought nor obtained the consent of the petitioner,
who is incarcerated and appearing *pro se*, to the subject matter of this motion.

/s/
Thomas E. Brown
Deputy Attorney General
Del. Dept. of Justice

Counsel for Respondents

Date: July 14, 2005

CERTIFICATE OF SERVICE

The undersigned, being a member of the Bar of this Court, hereby certifies that on July 14, 2005 he caused to be electronically filed a Motion for Extension of Time with the Clerk of the Court using CM/ECF and also caused to be mailed by first class U.S. Mail two copies of the document to the following non-registered participant, the petitioner:

Daniel R. Cousins (No. 00425626)
Delaware Correctional Center
1181 Paddock Road
Smyrna, DE 19977.

/s/
Thomas E. Brown
Deputy Attorney General
Del. Dept. of Justice

Counsel for Respondents

Date: July 14, 2005